

IN THE UNITED STATES BANKRUPTCY COURT
OF THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

In re:	§	Case No. 05-21207
	§	
ASARCO LLC, <u>et al.</u> ,	§	Chapter 11
	§	
Debtors.	§	Jointly Administered
	§	

MOTION FOR EMERGENCY CONSIDERATION OF MOTION OF ASARCO INCORPORATED AND AMERICAS MINING CORPORATION TO ENLARGE TIME PERIODS FOR FILING RESPONSES TO (I) MOTION FOR ORDER AUTHORIZING DEBTOR TO REJECT TAX SHARING AGREEMENT WITH AMERICAS MINING CORPORATION AND ASARCO INCORPORATED, A DELAWARE CORPORATION AND (II) DEBTOR'S MOTION FOR ORDER APPROVING PROPOSED TAX PROTOCOL AGREEMENT AND REQUIRING ASARCO INCORPORATED AND AMERICAS MINING CORPORATION TO PROVIDE CERTAIN TAX-RELATED INFORMATION OR,
IN THE ALTERNATIVE, COMPEL 2004 EXAMINATIONS
(Relates to Docket No. 3881)

EMERGENCY CONSIDERATION IS HEREBY REQUESTED WITHOUT HEARING OR, IN THE ALTERNATIVE, AN EMERGENCY HEARING IS HEREBY REQUESTED AT THE EARLIEST DATE CONVENIENT TO THE COURT.

TO THE HONORABLE RICHARD S. SCHMIDT,
UNITED STATES BANKRUPTCY JUDGE:

Americas Mining Corporation ("AMC") and its wholly owned subsidiary ASARCO Incorporated ("ASARCO Inc.") and together with AMC, the "Parent") file this Motion for Emergency Consideration of Motion of ASARCO Incorporated and Americas Mining Corporation to Enlarge Time Periods for Filing Responses to (i) Motion for Order Authorizing Debtor to Reject Tax Sharing Agreement with Americas Mining Corporation and ASARCO Incorporated, a Delaware Corporation and (ii) Debtor's Motion for Order Approving Proposed Tax Protocol Agreement and

Requiring ASARCO Incorporated and Americas Mining Corporation to Provide Certain Tax-Related Information or, in the Alternative, Compel 2004 Examinations (the "Emergency Motion"), and in support thereof, respectfully represents the following:

1. Contemporaneous with the filing of the Emergency Motion, the Parent filed its Motion of ASARCO Incorporated and Americas Mining Corporation to Enlarge Time Periods for Filing Responses to (i) Motion for Order Authorizing Debtor to Reject Tax Sharing Agreement with Americas Mining Corporation and ASARCO Incorporated, a Delaware Corporation and (ii) Debtor's Motion for Order Approving Proposed Tax Protocol Agreement and Requiring ASARCO Incorporated and Americas Mining Corporation to Provide Certain Tax-Related Information or, in the Alternative, Compel 2004 Examinations (the "Extension Motion"). The Extension Motion requests that the Court extend the Parent's deadline for responding to the Rejection Motion¹ and Protocol Motion to March 8, 2007, the deadline for filing an answer in the Refund Adversary.

2. The Parent hereby requests emergency consideration of the Extension Motion and requests that the Court grant the Extension Motion without a hearing. Rule 9006 of the Federal Rules of Bankruptcy Procedure provides that a court may "with or

¹ Capitalized Terms not otherwise defined herein shall have the meaning assigned to such term in the Extension Motion.

without motion or notice order [a period] enlarged if the request therefore is made before the expiration of the period originally prescribed." Fed. R. Bankr. P. 9006(b)(1). The time to file a response to the Protocol Motion and the Rejection Motion have not expired. Therefore, a hearing is not required on the Extension Motion unless it would aid the Court in its decision on the Extension Motion.

3. If the Court determines that a hearing on the Extension Motion is necessary, the Parent requests that an emergency hearing be scheduled at the earliest date convenient to the court.

4. Expedited consideration of the Extension Motion is necessary as the deadline to file a response to the Protocol Motion and the Rejection Motion is February 26, 2007. In order for the Parent to determine whether it will be required to file responses in the Protocol and Rejection Motions prior to the deadline to file an answer in the Refund Adversary, the Parent requests that the court consider the Extension Motion on as expedited a basis as possible.

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WHEREFORE, the Parent respectfully requests that the Court (i) enter an order granting the Emergency Motion; (ii) enter an order granting the Extension Motion or, in the alternative, schedule a hearing on the Stay Motion at the earliest date convenient to the court; and (iii) grant the Parent such further legal and equitable relief as is appropriate.

Dated: February 16, 2007

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